

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

MARQUES PHILLIPS and CYNTHIA  
PHILLIPS,

Plaintiffs,

Civ. S-04-0377 FCD PAN

v.

CITY OF FAIRFIELD, et al.,

ORDER

Defendants.

—oOo—

Defendants have again filed an ex parte application to shorten time due to the September 30, 2005, discovery deadline in this case. The application is granted. E. D. Cal. L. R. 6-144.

The parties have submitted a joint stipulation pursuant to E. D. Cal. L. R. 37-251. As oral argument is unnecessary to resolve this matter, defendants' motion is submitted on the papers.

Defendants seek an order pursuant to Fed. R. Civ. P. 37(a)

1 compelling plaintiffs to respond to the following outstanding  
2 discovery requests: Defendant City of Fairfield's Request for  
3 Production of Documents to Plaintiff Cynthia Phillips (Set Two),  
4 Defendant Mark Shraer's Interrogatories to Plaintiff Marques  
5 Phillips (Set Two), Defendant City of Fairfield's Request for  
6 Production of Documents to Plaintiff Marques Phillips (Set Two),  
7 and Defendant Mark Shraer's Interrogatories to Plaintiff Cynthia  
8 Phillips (Set One). Defendants also seek sanctions.

9 Each of the above requests was propounded upon plaintiffs'  
10 former attorney, William Collier, on February 24, 2005. When Mr.  
11 Collier was granted leave to withdraw from this case on May 27,  
12 2005, no responses had been provided defendants. Plaintiffs  
13 retained new counsel, Mister Phillips, on June 17, 2005, and on  
14 July 28, the Honorable Frank C. Damrell, Jr., extended the  
15 discovery deadline to September 30. On August 11, 2005,  
16 defendants wrote a letter to Mr. Phillips requesting all  
17 responses by August 19. On August 18, Mr. Phillips emailed  
18 defendants stating he was working on the responses, required a  
19 copy of one request, and would be unable to complete the work by  
20 August 19. Defendants granted an extension to August 26. On  
21 August 29, defendants emailed Mr. Phillips informing him they  
22 would file a motion to compel if they did not receive plaintiffs'  
23 responses that day. Mr. Phillips left a voice mail at  
24 defendants' office that evening to which defendants responded by  
25 letter dated August 30, "We will consider this your attempt to  
26 meet and confer over these matters . . . we will need to file a

1 motion to compel if we do not receive it [the discovery  
2 responses] tomorrow by 10:00 am." More communications ensued but  
3 none reflect refusal by Mr. Phillips to provide the responses,  
4 only the need for additional time.

5 Mr. Phillips states in the joint stipulation, "I did not  
6 even know that the Defendants still needed responses until they  
7 notified me on or around August 11, 2005. That was just 20 days  
8 ago. I told the Defendants that I would provide them responses,  
9 and I will. I just have not had the time."

10 Defendants' motion is granted. Plaintiffs shall provide  
11 defendants with all responses to the above-noted discovery  
12 requests on or before September 20, 2005. Defendants' request  
13 for sanctions is denied.

14 So ordered.

15 Dated: September 8, 2005.

16 /s/ Peter A. Nowinski  
17 PETER A. NOWINSKI  
18 Magistrate Judge  
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